

REMARKS

Claims 1-9, 11-13, 15-20, 27-54 were pending before this amendment. Claims 1, 16 and 27 are currently amended, and claims 31-54 are cancelled herewith. Support for the amendments to the claims is found, e.g., in the Examples. No new matter has been added.

Claims 1-9, 11-13, 15-20 and 27-30 are now in the case.

Claims 38-43 and 48-51 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Watson, U.S. Patent No. 3,858,764 (“Watson”). Applicants have cancelled claims 38-43 and 48-51 to obviate this rejection.

Claims 1-6, 9, 11, 12, 15-20, 27, 28, 31-35, 38, 39, 42-49 and 52-54 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Alexander, U.S. Patent No. 3,964,649 (“Alexander”). Claims 31-35, 38, 39, 42-49 and 52-54 have been cancelled to obviate this rejection with regard to these claims. With regard to claims 1-6, 9, 11, 12, 15-20, 27 and 28, Applicants respectfully request that the rejection be reconsidered and withdrawn for the following reasons.

As amended, independent claims 1 and 27 require a sorbant consisting essentially of an open cell foam. Alexander does not teach or suggest a sorbant consisting essentially of an open cell foam. Alexander discloses in his abstract “a reservoir containing a propellant sorbed by a sorbant material, the reservoir having a vapor-permeable wall to permit propellant gas to pass through and pressurize the headspace of the device.” Alexander discloses at col. 2, lines 2-5 that he has found “various particulate silicas and methylated silicas to be suitable for use as sorbant substances in the pressurized dispensing devices of the invention.” Alexander also discloses at col. 2, lines 8-12 that “further examples of sorbant substances are precipitated silicas, such as aluminium silicate and magnesium silicate, fumed amorphous silicas, hydrated light alumina, absorbent cotton, felt, fibre matting, pumice stone, expanded vermiculite, powdered aluminum.”

Alexander describes his vapor-permeable walls as “envelopes and sachets constructed from open cell plastic foams such as polyvinyl chloride, polyethylene or polypropylene foams, particularly those having a woven backing. The only disclosure of open cell foam in Alexander is as a vapor-permeable wall, not as a sorbant. Thus, Alexander does not teach or suggest a sorbant that consists essentially of an open cell foam. Applicants respectfully submit that independent claims 1 and 27, together with all claims depending from these claims, are novel over Alexander.

Claims 1-9, 11, 12, 15-20, 27-30, 44 and 52 have been rejected under 35 U.S.C. § 103(a) as being obvious over Watson in view of Benoist, U.S. Patent No. 6,527,150 (“Benoist”). Claims 44 and 52 have been cancelled to obviate this rejection with regard to these claims. Regarding claims 1-9, 11, 12, 15-20 and 27-30, Applicants respectfully request that the rejection be reconsidered and withdrawn for the following reasons.

Independent claims 1 and 27 require a sorbant consisting essentially of an open cell foam and that the sorbant be in fluid contact with the personal care formulation and the propellant within the container. Watson does not teach or suggest a sorbant consisting essentially of an open cell foam. As pointed out by the Examiner, Watson lists a foam sorbant in Table 7. However, Watson provides little information concerning the nature of his foam and does not teach or suggest open cell foams. Watson discloses at col. 5, lines 10-12 that “it is also important that the reservoir material should not absorb, dissolve or otherwise remove any component of the concentrate.” Such a statement teaches away from using open cell foam because open cell foams would absorb such materials.

Benoist discloses at col. 1, lines 9-12 “the invention relates to devices of the type having a propellant kept separate from the product that is to be dispensed, for example, via a flexible-walled pouch or a moving piston” (emphasis added). Beginning at col. 3, line 65 (and referring to Fig. 1), Benoist describes operation of his “bag in bottle” device in which a propellant and sorbant are kept separate from the product.

The bottom end 7 of the container 2 is closed, for example, by a concave bottom wall. The bottom end 7 includes a filling valve 8 capable of receiving a propellant by, for example, filling using a needle. A retainer 9 is arranged in the bottom end 7 of the container 2. In an exemplary embodiment, the retainer 9 is a block of open-cell foam. The retainer 9 is axially immobilized by a stop in the form of an annular collar 10 formed by the body of the container 2. Thus, a volume 11 is formed between the outer surface of the flexible-walled pouch 6 and the interior surface of the outer container 2. Arranged inside this volume 11, the open-cell foam retainer 9 contains the liquid phase of a liquefied gas, for example, an isobutane. In operation, the liquefied gas vaporizes above the retainer 9 and exerts sufficient pressure on the exterior walls of the pouch 6 so as to pressurize the product P contained therein.

While Benoist describes a device that includes open cell foam and a propellant in which the propellant and sorbant are kept separate from the product, Benoist teaches away from employing open cell foams that contact the personal care formulation, within the container.

A person having ordinary skill in the art would not be motivated to modify the dispensers of Watson such that they employ the open cell foam of Benoist because both Watson and Benoist teach away from using open cell foams that are in fluid contact with the personal care formulation within the container. Furthermore, combining Watson and Benoist in the manner suggested by the Examiner would not produce Applicants' invention because Benoist teaches and suggests only employing open cell foams such that the propellant and sorbant are kept separate from the product. Thus, neither Watson alone nor in combination with Benoist renders obvious claim 1 or 27. Therefore, claims 1 and 27, and all claims depending from claims 1 and 27 are non-obvious over Watson in view of Benoist.

Claim 13 has been rejected under 35 U.S.C. § 103(a) as being obvious over Watson in view of Benoist and further in view of de LaForcade, U.S. Patent No. 6,464,111 ("de LaForcade"), and Villars, U.S. Patent No. 5,451,396 ("Villars") or Alexander in view of de

LaForcade and Villars. Applicants respectfully request that the rejection be reconsidered and withdrawn.

Claim 13 depends from claim 1. As discussed above, neither Watson alone nor in combination with Benoist renders obvious claim 1. In addition, neither de LaForcade nor Villars teaches or suggests a sorbant consisting essentially of an open cell foam that is in fluid contact with the personal care formulation and the propellant within the container. Thus, the secondary references do not supply what is lacking in Watson and Benoist.

Alexander, de LaForcade and Villars have been discussed above. For the reasons discussed above, no combination of Alexander, de LaForcade and Villars renders claim 1 obvious. Thus, claim 13 is allowable for at least the reason that it depends from a non-obvious, allowable base claim.

Claims 29, 30, 36, 37, 50 and 51 have been rejected under 35 U.S.C. § 103(a) as being obvious over Alexander in view of Watson. Claims 36, 37, 50 and 51 have been cancelled to obviate this rejection with respect to these claims. With respect to claims 29 and 30, Applicants respectfully request that the rejection be reconsidered and withdrawn.

Claims 29 and 30 depend from independent claim 27. Independent claim 27 requires a sorbant consisting essentially of open cell foam. Neither Alexander alone nor in combination with Watson teaches or suggests this requirement. Claims 29 and 30 are allowable for at least the reason that they depend from a non-obvious, allowable base claim.

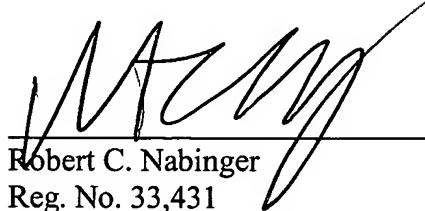
Applicants believe that all claims in the case are condition for allowance.

It is not believed that any charges are due, but please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 00216-529001.

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Serial No. : 10/034,966
Filed : December 26, 2001
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Attorney's Docket No.: 00216-529001 / T-681

Respectfully submitted,



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Date: November 3, 2004

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